

11 CSR 70-2.280 Guidelines for Using Minors in Intoxicating Liquor or Nonintoxicating Beer Investigations

PURPOSE: *This rule establishes guidelines for the use of minors in intoxicating liquor or nonintoxicating beer investigations by a state, county, municipal or other local law enforcement authority.*

(1) The following shall constitute guidelines for the use of minors in intoxicating liquor or nonintoxicating beer investigations by a state, county, municipal or other local law enforcement authority:

(A) The minor shall be eighteen (18) or nineteen (19) years of age;

(B) The minor shall have a youthful appearance and the minor, if a male, shall not have facial hair or a receding hairline; if a female, shall not wear excessive makeup or excessive jewelry. The minor, male or female, shall not wear headgear that will obstruct a clear view of the face or hairline;

(C) The minor shall carry his or her own identification showing the minor's correct date of birth and shall, upon request, produce such identification to the seller of the intoxicating liquor or nonintoxicating beer at the licensed establishment; and the state, county, municipal or other local law enforcement agency shall search the minor prior to the operation to ensure that the minor is not in possession of any other valid or fictitious identification;

(D) The minor shall answer truthfully any questions about his or her age and shall not remain silent when asked questions regarding his or her age, nor misrepresent anything in order to induce a sale of intoxicating liquor or nonintoxicating beer;

(E) The state, county, municipal or other local law enforcement agency shall make a photocopy of the minor's valid identification showing the minor's correct date of birth;

(F) Any attempt by such minor to purchase intoxicating liquor or nonintoxicating beer products shall be videotaped or audiotaped with equipment sufficient to record all statements made by the minor and the seller of the intoxicating liquor or nonintoxicating beer product;

(G) The minor shall not be employed by the state, county, municipal or other local law enforcement agency on an incentive or quota basis;

(H) If a violation occurs, the state, county, municipal or other local law enforcement agency shall, within two (2) hours, make reasonable efforts to confront the seller, if practical, and further, within forty-eight (48) hours, contact

or take all reasonable steps to contact the owner or manager of the establishment;

(I) The state, county, municipal or other local law enforcement agency shall maintain records of each visit to an establishment where a minor is used by the state, county, municipal or other local law enforcement agency for a period of at least one (1) year following the incident, regardless of whether a violation occurs at each visit, and such records shall, at a minimum, include the following information:

1. A photograph of the minor taken immediately prior to the operation;
2. A photocopy of the minor's valid identification, showing the minor's correct date of birth;
3. An Information and Consent document, included herein, completed by the minor in advance of the operation in the following form:
4. The name of each establishment visited by the minor, and the date and time of each visit;
5. The audiotape or videotape specified in subsection (1)(F) above; and
6. A written Minor Report in the following form:

(J) The state, county, municipal or other local law enforcement agency must provide pre-recorded currency to the minor, to be used in the operation, and, if a violation occurs, must make all reasonable efforts to retrieve the pre-recorded currency. If a violation occurs, said agency shall further secure and inventory any intoxicating liquor or nonintoxicating beer products purchased; and

(K) The state, county, municipal or other local law enforcement agency must, in advance of the operation, train the minor who will be used in the operation, which training shall, at a minimum, include

- i) instruction to enter the designated establishment and to proceed immediately to attempt to purchase intoxicating liquor or nonintoxicating beer products;
- ii) instruction to provide the minor's valid identification upon a request for identification by the seller;
- iii) instruction to answer truthfully all questions about age;
- iv) instruction not to lie to the seller to induce a sale of intoxicating liquor or nonintoxicating beer products;

v) instruction on the use of pre-recorded currency; and

vi) instruction on the other matters set out in this regulation.

(2) The supervisor of alcohol and tobacco control shall not participate with any state, county, municipal, or other local law enforcement agency, nor discipline any licensed establishment when any state, county, municipal, or other law enforcement agency chooses not to follow the supervisor's permissive standards.

*AUTHORITY: section 311.722, RSMo Supp. 2005. Original rule filed Jan. 13, 2006, effective Aug. 30, 2006. *Original authority: 311.722, RSMo 2005.*